

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Bee Sweet Citrus, Inc.,

Complainant,

v.

Southern California Edison Company,

Defendant.

Case 05-11-004  
(Filed November 1, 2005)

**SCOPING MEMO AND RULING OF ASSIGNED COMMISSIONER  
AND ADMINISTRATIVE LAW JUDGE (ALJ)**

**Summary**

This ruling and scoping memo (Scoping Memo) confirms certain rulings made at the telephonic prehearing conference (PHC) in this case held Wednesday, December 21, 2005, and sets forth the issues, the schedule, and addresses other procedural requirements.

**Scope of the Proceeding**

Complainant alleges that it has been wrongfully charged \$22,785.96 on peak kilowatt usage and penalties between July 27 and October 1, 2004. Complainant also seeks \$7,615.54 to repair damage to its equipment which it alleges Edison caused.

The scope of the proceeding is: (a) whether Edison's power failures or irregular power supply to the DMM Ranch, if any, caused inaccurate readings by

Edison's power monitoring system or improper billing to complainant; (b) whether the meters installed at the site were working properly; (c) whether complainant's time controllers were working properly; (d) whether the meters corresponding with the pumping locations reflected energy use during the on-peak hours; and (e) whether the charges to complainant are correct.

Complainant was also advised at the PHC that generally, the Commission does not have the jurisdiction to award monetary damages, and is evaluating the claim for monetary damages. If complainant goes forward with this claim, another issue is whether the Commission has jurisdiction to entertain the claim for \$7,615.54 to repair damage to complainant's equipment.

At the PHC, complainant advised the Commission that a similar billing issue has arisen for 2005, after it has paid Edison for the installation of TMLC devices on the pumps. Because Edison is not requesting these additional charges be paid at this time, pending further inquiry, complainant is not formally amending the complaint at this time. However, I note that complainant may amend its complaint prior to the hearings, and Edison should be prepared to address both the 2004 and 2005 problems.

**Schedule**

<b>Date</b>	<b>Event</b>
Late March or April	Mediation at a time and place to be arranged by mediator.
Monday, April 3, 2006	Parties serve direct testimony.
Monday, April 24, 2006	Parties serve reply testimony.
Friday, April 28, 2006	Parties exchange (by email or fax) cross examination estimates with each other and the ALJ. ALJ Econome's email is jjj@cpuc.ca.gov. The estimates shall be sent so that they are received by 5:30 p.m.
Wednesday, May 10, 2006, commencing at 9:30 a.m.	Evidentiary hearings at the Fresno State Office Building, Workers Compensation Appeals Board, 2550 Mariposa Mall, Room 1027, Fresno, California.
Monday, June 5, 2006	Concurrent opening briefs filed.
Thursday, June 15, 2006	Concurrent reply briefs filed.
Monday, August 14, 2006	Last Day to Mail Presiding Officer's Decision

Our goal is to resolve this case as soon as possible and we anticipate that the resolution will not exceed 12 months from the date of filing the investigation, pursuant to Pub. Util. Code § 1701.2(d).<sup>1</sup>

### **Category of Proceeding**

This proceeding is categorized as adjudicatory and it is determined that hearings are necessary.

### **Presiding Officer**

Pursuant to Rule 6(c), Assigned Commissioner Bohn designates ALJ Econome as the presiding officer.

### **Exhibits**

Parties shall follow the requirements set forth in Appendix B regarding service, correction and identification of, and cross-examination with, exhibits in the hearing room.

### **Service List**

The service list for this proceeding is attached to this Scoping Memo as Appendix A. The Commission has instituted electronic service rules. Further information about these rules is available at the Commission's website, [www.cpuc.ca.gov](http://www.cpuc.ca.gov). These rules pertain to service only. The filing rules have not changed and the Commission does not at this time have electronic filing.

---

<sup>1</sup> Section 1701.2(d) states that adjudication cases shall be resolved within 12 months of initiation unless the Commission makes findings why that deadline cannot be met and issues an order extending that deadline.

### **Communications With Decision Makers (Ex Parte Communication)**

Pursuant to Pub. Util. Code § 1701.2(b), ex parte communications are prohibited in this proceeding. For example, a party or any other person who has a financial interest in this proceeding is prohibited from speaking with a decision maker on a substantive issue in this case. (See Pub. Util. Code § 1701.1, 1701.2, and Rules 5 and 7 of the Commission's Rules of Practice and Procedure for specific rules on ex parte communications.)

### **Discovery Disputes**

If the parties have discovery disputes they are unable to resolve by meeting and conferring, they should raise these disputes pursuant to Resolution ALJ-164.

### **Public Advisor**

Complainant and its counsel may obtain general information on Commission proceedings by contacting the Commission's Public Advisor at 1-866-849-8391 (telephone) or at [public.advisor.la@cpuc.ca.gov](mailto:public.advisor.la@cpuc.ca.gov) (email).

#### **IT IS RULED that:**

1. The scope and schedule for this case are as set forth in this Scoping Memo, unless subsequently modified by Assigned Commissioner or Assigned Administrative Law Judge (ALJ) directive.
2. ALJ Econome is the presiding officer in this proceeding.
3. The service list for this proceeding is attached as Appendix A.
4. Parties shall follow the instructions in Appendix B regarding exhibits.
5. Pursuant to Pub. Util. Code § 1701.2(b), ex parte communications are prohibited.

6. The parties shall raise any discovery disputes pursuant to Resolution ALJ-164.

Dated December 29, 2005, at San Francisco, California.

/s/ JOHN A. BOHN  
John A. Bohn  
Assigned Commissioner

/s/ JANET A. ECONOME  
Janet A. Econome  
Administrative Law Judge

## APPENDIX A

### SERVICE LIST

\*\*\*\*\* APPEARANCES \*\*\*\*\*

James C. Sherwood  
BEE SWEET CITRUS, INC.  
416 E. SOUTH AVE.  
FOWLER CA 93625  
(559) 834-5345  
james@beesweetcitrus.com  
For: Bee Sweet Citrus, Inc.

Stacie Schaffer  
MICHAEL MONTOYA  
Attorney At Law  
SOUTHERN CALIFORNIA EDISON COMPANY  
2244 WALNUT GROVE AVENUE, ROOM 390  
ROSEMEAD CA 91770  
(626) 302-3712  
stacie.schaffer@sce.com  
For: Southern California Edison

\*\*\*\*\* STATE EMPLOYEE \*\*\*\*\*

Los Angeles Docket Office  
CALIFORNIA PUBLIC UTILITIES COMMISSION  
320 W. 4TH STREET, SUITE 500  
LOS ANGELES CA 90013  
LAdocket@cpuc.ca.gov

Janet A. Econome  
Administrative Law Judge Division  
RM. 5113  
505 VAN NESS AVE  
San Francisco CA 94102  
(415) 703-1494  
jjj@cpuc.ca.gov

\*\*\*\*\* INFORMATION ONLY \*\*\*\*\*

Consumer Affairs  
SOUTHERN CALIFORNIA EDISON COMPANY  
2244 WALNUT GROVE AVE. ROOM 390  
ROSEMEAD CA 91770

Case Administration  
SOUTHERN CALIFORNIA EDISON COMPANY  
2244 WALNUT GROVE AVE., RM. 370  
ROSEMEAD CA 91770  
(626) 302-4875  
case.admin@sce.com

**(END OF APPENDIX A)**

## **APPENDIX B**

### **EXHIBITS**

#### **Service of Exhibits**

All prepared written testimony shall be served on everyone on the service list, as well as on the Assigned Commissioner's office and on the Assigned ALJ. Do NOT file prepared written testimony with the Commission's Docket Office. (Such testimony becomes part of the record only after it is admitted into evidence.)

#### **Identification of Exhibits in the Hearing Room**

Each party sponsoring an exhibit shall, in the hearing room, provide two copies to the ALJ and one to the court reporter, and have copies available for distribution to the other parties present in the hearing room, if the exhibit has not already been served. The upper right hand corner of the exhibit cover sheet shall be blank for the ALJ's exhibit stamp. Please note that this directive applies to cross-examination exhibits as well. If there is insufficient room in the upper right hand corner for an exhibit stamp, please prepare a cover sheet for the cross-examination exhibit.

#### **Cross-examination with Exhibits**

As a general rule, if a party intends to introduce an exhibit in the course of cross-examination, the party should provide a copy of the exhibit to the witness and the witness' counsel before the witness takes the stand on the day the exhibit is to be introduced. Generally, a party is not required to give the witness an advance copy of the document if it is to be used for purposes of impeachment or to obtain the witness' spontaneous reaction. An exception might exist if parties have otherwise agreed to prior disclosure, such as in the case of confidential documents.

#### **Corrections to Exhibits**

Generally, corrections to an exhibit should be made in advance and not orally from the witness stand. Corrections should be made in a timely manner by providing new exhibit pages on which corrections appear. The original text to be deleted should be lined out with the substitute or added text shown above or inserted. Each correction page should be marked with the word "revised" and the revision date.

Exhibit corrections will receive the same number as the original exhibit plus a letter to identify the correction. Corrections of exhibits with multiple sponsors will also be identified by chapter number. For example, Exhibit 5-3-B is the second correction made to Chapter 3 of Exhibit 5.



**(END OF APPENDIX B)**

## **CERTIFICATE OF SERVICE**

I certify that I have by mail this day served a true copy of the original attached Scoping Memo and Ruling of Assigned Commissioner and Administrative Law Judge on all parties of record in this proceeding or their attorneys of record.

Dated December 29, 2005, at San Francisco, California.

/s/ ELVIRA T. NIZ

Elvira T. Niz

## **N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

\*\*\*\*\*

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.